

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3287 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

B N BORSE

Versus

FOREST CONSERVATOR

Appearance:

MS SUDHA R GANGWAR for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/12/1999

ORAL JUDGEMENT

Neither of the learned advocates is present.

The petitioner challenges the validity of termination of his service. It appears that on 24th August, 1977, the petitioner was appointed as Depot Guard on compassionate ground. However, during his service as a Depot Guard, he was frequently found to be absent from service. The petitioner had continuously remained absent

from service from 13th August, 1983 to 19th September, 1984. On account of this misconduct, a disciplinary action was initiated against the petitioner. The petitioner accepted the imputation of charge made against him. On 29th May, 1985, a notice was issued upon the petitioner to show cause why his service should not be terminated. Considering the reply submitted by the writ petitioner, under order dated 13th October, 1985, the petitioner was dismissed from service. Feeling aggrieved, the petitioner preferred an appeal before the Conservator of Forests, Surat, which too came to be dismissed on 12th February, 1986. Therefore, the petition.

The only contention raised in the petition is that the petitioner was appointed on compassionate ground and he being the head of the family was required to look after his widowed mother and the ailing grand-mother, on account of which, he had to remain absent from service occasionally. It is not disputed that the petitioner was absent from service continuously from 13th August, 1983 to 19th September, 1984.

The only documents which are produced by the petitioner are the above referred appellate order dated 12th February, 1986, and the appeal memo. Upon perusal of the said order, it appears that not only the petitioner had remained absent from service continuously from 13th August 1983, earlier also, on several occasions he was found to be absent from service. For the said misconduct, even a warning was issued and the petitioner too had submitted a written apology and had assured the concerned officer to be regular and diligent in discharge of his duties. In spite of the above incident, the petitioner not only remained absent from service, but he did not even give a leave report, nor had he justified his absence from service by producing the medical certificate as required under the relevant rules. Besides, the petitioner also appears to have issued an indiscernible transit part with an oblique motive. Be that as it may, the only misconduct for which the petitioner's service has been terminated is remaining absent from service as aforesaid.

Looking to the findings recorded by the appellate officer, it does appear that the petitioner was habituated to remain absent from service and had no sense of responsibility. Further, the petitioner has not challenged either the inquiry held against him, or the finding of guilt recorded against him. In that view of the matter, the order of dismissal from service does not

call for interference.

Petition is dismissed. Rule is discharged. There shall be no order as to costs.

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JOSHI